

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7716

BILL NUMBER: HB 1553

DATE PREPARED: Apr 5, 2001

BILL AMENDED: Apr 5, 2001

SUBJECT: Independent Contractor Documentation.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill exempts an owner who contracts for performance of work on the owner's owner-occupied residential property from the requirement that a certificate of worker's compensation insurance be secured from a contractor. It provides that an independent contractor shall file with the Indiana Department of State Revenue a statement in support of the independent contractor's status and obtain clearance from the Department before a certificate of exemption is issued. The bill provides that a filing fee of \$5 must accompany the statement and documentation required to be filed with the department, and that the filing fee shall be deposited in the Independent Contractor Information Account. It also provides that the department shall issue a certificate of exemption not less than seven days after verifying the accuracy of the supporting documentation. The bill provides that the certificate is valid for one year. It requires that a certificate of exemption issued by the Department must be filed with the Worker's Compensation Board in order to be given effect. The bill also provides that a filing fee of \$15 must accompany the certificate filed with the Board, and that the filing fee shall be deposited in the Worker's Compensation Supplemental Administrative Fund and used for the expenses of the Worker's Compensation Board. It provides that a certificate of exemption becomes effective seven business days after the date file stamped on the certificate by the Worker's Compensation Board. This bill provides that a contractor who knowingly or intentionally causes or assists employees to file a statement and supporting documentation of independent contractor status commits a Class D felony. It allows the Worker's Compensation Board to impose a civil penalty against a billing review service that uses a billing review standard that does not comply with statutory requirements. The bill raises the assessment limit on the Second Injury Fund from 1.5% to 2% of benefits paid in the prior calendar year. It requires the Worker's Compensation Board to assign an employee to monitor eligibility of second injury fund recipients. It also amends the definition of "employer" to specify that a parent and a subsidiary of a corporation or lessor of employees are each considered to be the employer for purposes of the exclusive remedy provisions of the Worker's Compensation and Occupational Diseases laws. The bill deletes the requirement that the Worker's Compensation Rating Bureau of Indiana must investigate rejected risks 90 days before expiration of a Worker's Compensation Insurance policy. The bill deletes the requirement that the Bureau must send notice of the investigation to all of its members 60 days before the

expiration of the policy. It makes conforming amendments and technical corrections.

Effective Date: July 1, 2001.

Explanation of State Expenditures: (Revised) The bill provides that a contractor who knowingly or intentionally causes or assists employees to file an affidavit of exemption commits a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

The provision requiring the Worker's Compensation Board to assign an employee to monitor eligibility of Second Injury Fund recipients would have no impact unless an additional person was added.

The provisions that delete the requirement of the Worker's Compensation Rating Bureau of Indiana to investigate rejected risks 90 days before expiration of a Worker's Compensation Policy and to provide notice of the investigation 60 days expiration of the policy would be a saving to the Bureau.

Explanation of State Revenues: (Revised) The current fee for an independent contract is \$5 with 50% of the fee going to the Worker's Compensation Supplemental Administrative Fund and 50% going to the Independent Contractor Information Account in the State General Fund. The \$5 fee raised \$43,379 in FY 2000. Assuming that the new \$20 fee (\$15 instead of \$2.50 for the Worker's Compensation Supplemental Administrative Fund and \$5 instead of \$2.50 for the Independent Contractor Information Account in the State General Fund) would raise four times the revenue, then the increase in revenue for the Worker's Compensation Supplemental Administrative Fund would be about \$117,000, and the increased revenue for the Independent Contractor Information Account in the State General Fund would be about \$13,000.

If additional court cases occur and fines are collected due to the new Class D felony, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Increasing the assessment limit on the Second Injury Fund from 1.5% to 2% of benefits paid in the prior calendar year would generate about \$950,000 if the maximum assessment were charged.

Explanation of Local Expenditures: (Revised) If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: (Revised) If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive

3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies, Workers Compensation Board.

Information Sources: Indiana Sheriffs Association, Department of Correction, Workers Compensation Board.